

REMARKS

Claims 1-18 are pending in this application. Claims 1, 4-6 and 11 have been amended. No new matter has been introduced.

Claims 1, 3, 7, 8, 11 and 15 are rejected under 35 U.S.C. § 102(e) as being anticipated by Dreyfuss (U.S. Patent No. 6,652,563). This rejection is respectfully traversed.

The claimed invention relates to a bioabsorbable suture anchor. Amended independent claim 1 recites a “suture anchor” comprising “a bioabsorbable anchor body having a proximal end and a distal end” and “a suture loop disposed completely within the anchor body.” Amended independent claim 11 recites an “insert-molded suture anchor” comprising “a bioabsorbable anchor body,” “a drive socket” and “a suture loop disposed completely within the anchor body, the suture loop being insert-molded into the anchor body.”

Dreyfuss relates to a “suture anchor” that has “a suture loop that is disposed internally within the suture anchor.” (Abstract). Dreyfuss teaches that the loop extends “through a substantial length of the anchor body with the ends of the suture loop secured at the distal end of the anchor and the proximal end of the loop being flush with or recessed just below the proximal surface of the proximal end of the anchor.” (Abstract).

Dreyfuss does not anticipate the subject matter of claims 1, 3, 7, 8, 11 and 15. Dreyfuss is silent about a “suture anchor” having “a bioabsorbable anchor body,” as amended independent claims 1 and 11 recite. Dreyfuss teaches that suture anchor 110 (which would arguably correspond to the “anchor body” of the claimed invention) is “formed of a hard biocompatible metal, such as a titanium alloy” and that it “can be

made of biocompatible materials other than metal" (col. 4, ll. 38-40), and not of a "bioabsorbable" material, as in the claimed invention. Dreyfuss also fails to disclose, teach or suggest that the suture loop is "insert-molded into the anchor body," as claim 11 recites. In Dreyfuss, the ends of suture loop 122, 222 are either "tied in a knot 125" (col. 4, l. 28) or "pinched in place against the respective walls forming the passageways 226" (col. 5, ll. 6-7). Thus, the suture loops and suture ends of Dreyfuss are not "insert-molded into the anchor body," as in the claimed invention. For at least these reasons, Dreyfuss fails to anticipate the subject matter of claims 1, 3, 7, 8, 11 and 15, and withdrawal of the rejection of these claims is respectfully requested.

Claims 9-10, 14 and 17-18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Dreyfuss in view of Grafton et al. (U.S. Patent No. 6,319,270). Claims 9 and 17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Dreyfuss in view of Bidwell (U.S. Patent No. 74,489). Claims 2 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Dreyfuss. Claims 4, 13 and 16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Dreyfuss in view of Jackson et al. (U.S. Patent No. 6,454,772). Claims 5 and 6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Dreyfuss in view of Schmieding et al. (U.S. Patent No. 6,214,031). These rejections are respectfully traversed.

Applicants note that the rejection of claims 2, 4-6, 9, 10, 12-14 and 16-18 is premised upon Dreyfuss. Dreyfuss, however, is not a valid prior art reference and should be excluded under 35 U.S.C. § 103(c).

The effective filing date of the present application is September 12, 2002. Dreyfuss was filed on May 3, 2002 (claiming priority from U.S. Serial No. 60/326,214 filed on October 2, 2001) and published on April 3, 2003. Dreyfuss thus qualifies as prior art only under 35 U.S.C. § 102(e). The subject matter of Dreyfuss and that of the

claimed invention were, at the time the invention was made, subject to an obligation of assignment to the same entity: Anthrex, Inc. The Assignment for this application was recorded in the PTO on January 13, 2004, on Reel 014881, Frame 0058. The Assignee of Dreyfuss is shown on the face of the patent. Therefore, section 35 U.S.C. § 103(c) applies. According to MPEP § 706.02(l)(1), “[e]ffective November 29, 1999, subject matter which was prior art under former 35 U.S.C. 103 via 35 U.S.C. 102(e) is now disqualified as prior art against the claimed invention if that subject matter and the claimed invention ‘were, at the time the invention was made, . . . subject to an obligation of assignment to the same person.’” Accordingly, Dreyfuss is not a valid prior art reference and should be excluded under 35 U.S.C. § 103. Applicants respectfully request withdrawal of the rejection of claims 2, 4-6, 9, 10, 12-14 and 16-18.

Allowance of all pending claims is solicited.

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